

City of San Diego
Development Services Department
LAND DEVELOPMENT REVIEW DIVISION
1222 First Avenue, Mail Station 501
San Diego, CA 92101
(619) 446-6460

INITIAL STUDY
LDR No. 42-0939
SCH No. Pending

SUBJECT: City of San Diego Inclusionary Housing Ordinance: COUNCIL APPROVAL and AMENDMENT to the CITY'S LOCAL COASTAL PROGRAM. Council Approval of an Inclusionary Housing Ordinance that would require ten percent of all new residential development of two (2) or more units, or the residential portion of all mixed use projects with two (2) or more residential units, to be affordable housing units. The affordable units may be constructed on the original development site or off-site within the same community planning area, or an alternate site, provided the site is approved by the San Diego Housing Commission, the City of San Diego and/or the Redevelopment Agency. Alternatively, a developer may opt to pay a fee in lieu of providing onsite or off-site affordable housing. The Inclusionary Housing Ordinance would apply citywide and be incorporated into the City's Land Development Code. This would require an Amendment to the City's Local Coastal Program for the Ordinance to become effective in that portion of the City located in the Coastal Zone. Applicant: City of San Diego, San Diego Housing Commission.

I. PURPOSE AND MAIN FEATURES:

The proposed project is the adoption of a citywide Inclusionary Housing Ordinance (herein the Ordinance). Other than the provisions of the Ordinance being added to the Land Development Code, and the Amendment to the Local Coastal Program, no other changes to any existing regulations would occur. The Local Coastal Program Amendment is required for the Ordinance to be implemented in the coastal zoned portion of the City. The Ordinance only provides a mechanism to alter the market composition (market rate units vs. affordable housing units) of proposed residential or mixed-use development.

Construction of new housing in San Diego has not kept pace with employment or population growth, resulting in housing costs that have increased at a much faster rate than income in the past decade. The purpose of the Ordinance is to address San Diego's continuing shortage of affordable housing for low and moderate-income residents and support the City's Balanced Communities Policy by creating affordable housing units as market rate housing is developed. The proposed Ordinance would require ten percent of all new residential development of two (2) or more units, or the residential portion of all mixed-use projects with two (2) or more residential units, to be affordable housing units. For sale units would retain affordability for the first ownership cycle, whereas rental units must remain affordable for a period of 55 years. For the purposes of the proposed Ordinance, affordable housing is defined as affordable for households who earn 65 percent of the Area Median Income (AMI) for rental units, and 100 percent of the AMI for for-sale units.

At the developer's discretion, the affordable units may be constructed on the original development site or off-site within the same community planning area as the original site, or an alternate site which supports the City's Balanced Communities Policy, provided the off-site location is approved by the San Diego Housing Commission, the City of San Diego and/or the Redevelopment Agency. All on-site and off-site development would be subject to the applicable permitting process. There would be no penalty for off-site development because the development would be required to retain the balanced community goal of providing affordable housing near the market-rate development or by supporting the City's Balanced Communities Policy. The affordable units would be required to be constructed, completed and ready for occupancy no later than the market rate units of the principal project or on a timeline that is acceptable to the San Diego Housing Commission, the City of San Diego and/or the Redevelopment Agency. Further, the affordable units would be required to be comparable in the number of bedrooms, exterior appearance and quality of construction to the market rate units of the principal project.

Alternatively, a developer could opt to pay a fee in lieu of providing onsite or off-site affordable housing. This fee would be phased in over a three-year period to ease the market adjustment to the new requirement and would increase annually thereafter, based on a formula listed in the proposed Ordinance. Fees would be required to be paid prior to the issuance of the first building permit, and monies collected would be deposited in an Inclusionary Housing Fund maintained by the San Diego Housing Commission. The use of these funds would be based on a priorities report prepared by the San Diego Housing Commission and approved by the San Diego City Council. The proposed Ordinance would not apply to projects in one or more of the following categories:

- * Projects which have received a Building Permit, Development Agreement, or have an approved Vesting Tentative Map prior to the effective date of this ordinance. The exemption would not apply to projects seeking an amendment to a Development Agreement, extension of a building permit or an amendment to a Vesting Tentative Map after the effective date of this ordinance.
- * That portion of a residential development project located on property owned by the United States or any of its agencies, or any residential project leased by the United States or any of its agencies for a period in excess of fifty (50) years. United States property not used exclusively for governmental purposes is not exempt.
- * Residential development located on property owned by the State of California or any of its agencies, with the exception of such property not used exclusively for a governmental or educational purpose.
- * Within the Future Urbanizing Area (FUA) and those areas of the City that were previously identified in the FUA and have been phase shifted into the Urbanizing Area, current regulations would remain in effect that require 20 percent of new housing to be affordable to households earning 65 percent of the AMI.

- * A Residential Development Project which is subject to a San Diego Redevelopment Agency Agreement within any part of the City for which a Redevelopment Plan is in effect may, on a case by case basis, be exempted from the provisions of this Ordinance by the City Council of the City of San Diego, upon an express finding that the Residential Development Project is fulfilling a stated significant objective(s) of a Redevelopment Agency's approved Five Year Plan for a Redevelopment Project Area. the finding shall be supported by substantial evidence included within the record of the approval of the Residential Development Project
- * For-sale projects targeted for and sold to households earning less than 150 percent of the AMI with two or more bedrooms.
- * Any residential project for which a waiver or reduction is obtained from the City Council due to extreme hardship and/or the absence of any reasonable nexus between the impact of development and either the amount of the fee charged or the inclusionary requirement.

Project applicants who elect to satisfy the inclusionary housing requirement through the production of onsite units would be entitled to expedited processing of their projects, including the market rate portion of the project. A further incentive for developers to provide affordable units onsite would be the stipulation that the square footage and interior features of affordable units would not be required to be the same as those of the principal project, provided they are of good quality and are consistent with the current standards for new housing.

Under current market conditions, it is estimated that the Ordinance would produce approximately 625 to 825 affordable units annually, including 450 to 550 new affordable units, plus 175 to 275 units anticipated in the FUA.

II. BACKGROUND

Inclusionary housing programs are typically established in areas where the median cost of housing has far exceeded the affordability level for the median household. The programs attempt to address the housing needs of households earning less than the median income, and especially low and very-low income households, as defined by the Department of Housing and Urban Development (HUD). This definition establishes categories of affordability by a level of household income. "Moderate-income" housing is affordable to those earning 81 percent to 120 percent of the Area Median Income (AMI); "low-income" 51 percent to 81 percent of the AMI; "very low-income" 31 to 50 percent of the AMI; and, "extremely low-income" 30 percent of the AMI or lower. HUD also defines housing as "affordable" when it does not exceed 30 percent of family income.

Inclusionary housing programs are not new or untested. Jurisdictions across the nation have created thousands of needed affordable homes through inclusionary housing programs. Jurisdictions enact these programs as an extension of their police powers to regulate land use, with the goal of assuring that limited supplies of developable land provide housing opportunities for all incomes.

There are currently over 100 inclusionary housing programs adopted at the local level. Most recently, the cities of Pasadena, San Jose and San Francisco have passed inclusionary ordinances, and the City of Los Angeles is currently considering a citywide program.

The State of California has made a commitment to affordable housing by mandating an inclusionary housing requirement within Redevelopment Project areas. State redevelopment law set forth under the California Community Development Law (Health and Safety Code 33000) requires that at least 15 percent of new and rehabilitated housing units be affordable. Of the units provided, 60 percent can be affordable to families earning up to 120 percent of the AMI and 40 percent must be affordable to those earning 50 percent or less of the AMI. Within the City of San Diego, there are 15 redevelopment project areas. In determining how to use inclusionary housing as a tool for creating affordable housing, each jurisdiction chooses from a wide variety of components in order to customize the program to its market. Program elements such as the required number of units and affordability level, the allowance of off-site development or payment of in-lieu fees, developer incentives (none included with this ordinance), and thresholds (no changes are proposed with this ordinance to existing regulations) vary greatly among the programs. Each of these elements must be taken into consideration when structuring a successful inclusionary housing program in order to tailor it to the individual market.

Within the City of San Diego the Redevelopment Area inclusionary housing program was established for the North City Future Urbanizing Area (NCFUA) Framework Plan. This program established a requirement for developers of residential projects in the NCFUA to provide a set-aside of 20 percent of their units to be built at an affordable level of 65 percent of the AMI. Subsequent subarea plans, development agreements and subdivision maps have incorporated provisions for this affordable housing requirement in their project approvals.

III. ENVIRONMENTAL SETTING:

The environmental setting for San Diego can be described as a city extending from Mexico to the south, to as far north as Escondido. The land area consists of a broad coastal plain to the west dissected by local streams and rivers, extending 10-15 miles inland to the foothills, mountains and valleys which constitute the eastern portion of the metropolitan area. The climate of the area is Mediterranean, characterized by moderate temperatures and approximately ten inches of rain annually. Climatic zones correspond to topographic zones: coastal, coastal hills, foothills, and mountains. The interaction of geologic and climatic systems has resulted in a broad range of soil types and vegetation associations. Most of the water supplied to the region is currently imported via aqueducts. The surface streams in the area are predominantly intermittent. (A more comprehensive setting for the City of San Diego can be found in the Final EIR for the updated Strategic Framework Plan (2002), which provides an updated focus for the City's Progress Guide and General Plan (1979), and includes a comprehensive, long-range plan for the development of the City.)

IV. ENVIRONMENTAL ANALYSIS: See attached Initial Study checklist.

V. DISCUSSION:

A. Land Use

The Ordinance would be incorporated into the City's Land Development Code and the Local Coastal Program Amended. The Ordinance does not propose any features which would alter a developments required consistency with the City's existing General Plan, Land Development Code, Community Plans or Planned District Ordinances. The requirement that a minimum of ten percent of approved housing units be affordable would be consistent with all adopted land use plans and policies. It only provides a mechanism to alter the market rate composition (market rate units vs. affordable housing units) of residential and mixed use developments.

B. Geology/ Soils

The seismic safety element and the conservation element of the City's Progress Guide and General Plan specify a series of guidelines and standards for future development. The implementation of these recommendations is applied on a project-specific basis. The Ordinance does not propose any changes which would alter the requirement for development to be consistent with existing geologic or soil hazard regulations. The requirement that a minimum of ten percent of approved housing units be affordable would not have a geologic effect since it would not change the effects that would result from a project without the Ordinance.

C. Air

Air quality is primarily related to population disbursement and related traffic as well as commercial and industrial development. The requirement that a portion of all new housing development contain affordable units would not affect the regional population. Regional air quality might degrade as the population increases, if the population growth were to result overall in higher volumes of vehicular traffic or longer trips. Regional population growth is a complex response to various factors, many of them relating to economic and employment opportunities. The Ordinance affects none of these growth-inducing factors. The Ordinance does not propose any changes which would alter the requirement for development to be consistent with existing air quality regulations. Further, requiring that a portion of new residential development be affordable to low and medium-income families within the existing adopted density limitations would not change the effects that would result from a project without the Ordinance. Therefore, no significant air quality impacts would result from the adoption and implementation of the proposed Ordinance.

D. Hydrology/Water Quality

The Ordinance does not propose any changes which would alter the requirement for development to be consistent with existing hydrologic and water quality regulations. The requirement that a minimum of ten percent of approved housing units be

affordable would not have a hydrology/water quality effect since it would not change the effects that would result from a project without the Ordinance.

E. Biology

Development of vacant land citywide for any residential project creates the potential for adverse biological impacts, regardless of a project's market rate composition (market rate units vs. affordable housing). The requirement that a minimum of ten percent of approved housing be affordable would not have an effect on biological resources, since it would not change the effects that would result from a project without the Ordinance. Further, the Ordinance would not affect the existing requirements for biological review and consistency with the City's Environmentally Sensitive Lands Regulations for projects subject to discretionary review.

F. Noise

The determination of noise impacts on a project-specific basis is based on City of San Diego's Progress Guide and General Plan standards. The City has established an exterior noise level standard of 65 decibels (dB{A}) Community Noise Equivalent Level (CNEL) for multi- and single-family residential areas and an interior noise level standard of 45 dB(A) CNEL. The requirement that a minimum of ten percent of approved housing units be affordable would not have a noise effect, since it would not change the effects that would result from a project without the Ordinance. All project proposals would still be required to meet the City's standards, as well as the standards contained in the Uniform Building Code (UBC), regarding noise.

G. Light, Glare, and Shading

Light impacts typical residential areas result from the installation of bright lights, such as field lighting for sports events, the construction of illuminated signs, or the placement of light-sensitive receptors in exposed areas. In higher density structures and mixed use projects, impacts can result from the glare and shade typically associated from the construction of large commercial office buildings and the concentration of mid-rise and high rise structures. Because the Ordinance would not influence these types of facilities, its adoption would not result in adverse light and glare impacts. Further, the Ordinance does not propose any features which would alter the ability of the City to enforce existing light pollution regulations or standards contained within the City of San Diego's Land Development Code.

H. Natural Resources

The requirement that a minimum of ten percent of approved housing units be affordable would not affect extractive or agricultural land use designations or uses. The Ordinance does not propose any features which would alter the requirement for development to be consistent with existing regulations regarding the preservation of natural resources. Therefore, the requirement that a minimum of ten percent of approved housing be affordable would not adversely affect natural resources, since it would not change the effects that would result from a project without the Ordinance.

I. Recreational Resources

The project does not propose any features which would alter the requirement for development to be consistent with existing regulations regarding recreational resources. Therefore, the requirement that a minimum of ten percent of approved housing be affordable would not adversely affect recreational resources, since it would not change the effects that would result from a project without the Ordinance.

J. Population

Based on studies conducted by the San Diego Association of Governments (SANDAG), the regional population of the area is determined by economic factors. Affordability of housing could potentially influence the distribution of population within the region, but the overall total population is not contingent upon the market rate composition of a particular project. Growth projections by SANDAG distribute the regional population throughout the region. This distribution considers the current land use designations in area communities.

The application of the Ordinance would be uniform over all new non-exempt projects. As such, the effects of affordability changes would be the same in any given area of the City, and would not change the population distribution as projected by SANDAG. Therefore, the ordinance would have no effect on population distribution.

K. Housing

The Ordinance requires that affordable housing units be comparable to market rate units in a particular development. As such, the Ordinance would not affect the nature of development, nor would it create a demand for additional housing.

L. Transportation

Nothing in the Ordinance would alter the requirement for development to be consistent with existing transportation and circulation regulations. The requirement that a minimum of ten percent of approved housing units be affordable would not have an effect on transportation and circulation, since it would not change the effects that would result from a project without the Ordinance.

M. Services/Utilities

The Ordinance would not alter or affect the existing requirements for ensuring the availability of adequate services and utilities in conjunction with approval of a development proposal. The requirement that a minimum of ten percent of approved housing units be affordable would not adversely affect the availability of services and utilities, because it would not change the effects that would result from a project without the Ordinance.

N. Energy

One of the goals of the City's Progress Guide and General Plan is the assurance of adequate energy supplies for the City. The plan sets forth seven guidelines to achieve this goal. The Ordinance does not propose any changes which would alter the requirement for development to be consistent with existing energy regulations. The requirement that a minimum of ten percent of approved housing units be affordable would not adversely affect energy supplies, since it would not change the effects that would result from a project without the Ordinance.

O. Water Conservation

The Ordinance would not alter or affect the existing requirements for ensuring the availability of an adequate water supply prior to a development proposal's approval. The requirement that a minimum of ten percent of approved housing units be affordable would not adversely affect the availability of water, since it would not change the effects that would result from a project without the Ordinance.

P. Neighborhood Character/Aesthetics

As provided by the proposed Ordinance, providing units within a project at below market prices would have no impact on neighborhood character and aesthetics. Although social or economic factors may be used to determine the significance of a physical change caused by a project or the feasibility of mitigation measures, Section 15131(a) of the California Environmental Quality Act (CEQA) Guidelines states that the "economic or social effects of a project shall not be treated as significant effects on the environment" and that significant environmental effects of social or economic changes result only when the social or economic changes cause a physical change in the environment. While there may be socioeconomic ramifications of providing below market rate housing, they are not associated with a physical impact on the environment. Therefore, they are not considered significant.

The Ordinance requires that the exterior appearance of affordable units complement surrounding properties, and that the overall quality of construction must be comparable to the market rate units in the principal project. Nothing in the Ordinance would alter requirements for consistency with existing design regulations contained in the Land Development Code, Community Plans, Planned District Ordinances, or other aesthetically-related regulatory documents. Therefore, the proposed project would not create neighborhood character or aesthetic impacts.

Q. Cultural Resources

The cultural resources management element of the City's Progress Guide and General Plan establishes goals for the conservation of cultural resources in the city. The City implements project-specific protection of cultural resources through the permit and environmental review process. Staff within the Development Services Department review proposed projects for compliance with the City's Historical Resource Regulations and assess their potential for impacts. Nothing in the Ordinance would alter development requirements for consistency with the existing Historical Resources

Regulations. The requirement that a minimum of ten percent of approved housing units be affordable would not adversely affect cultural resources, since it would not change the effects that would result from a project without the Ordinance.

R. Paleontological Resources

Valuable paleontological resources exist within the San Diego region. The City of San Diego implements project-specific protection of paleontological resources through the permit and environmental review process. Staff within the Development Services Department review proposed projects and assess their potential for impacts. Nothing in the Ordinance would alter development requirements for consistency with existing paleontological resources significance thresholds. The requirement that a minimum of ten percent of approved housing units be affordable would not adversely affect paleontological resources, since it would not change the effects that would result from a project without the Ordinance.

S. Human Health/Public Safety

Nothing in the Ordinance would alter development requirements for consistency with existing human health and public safety regulations. The requirement that a minimum ten percent of approved housing units be affordable would not adversely affect human health or public safety, because it would not change the effects that would result from a project without the Ordinance.

VI. RECOMMENDATION:

On the basis of this initial evaluation:

- X The proposed project would not have a significant effect on the environment, and a NEGATIVE DECLARATION should be prepared.
- Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described in Section IV above have been added to the project. A MITIGATED NEGATIVE DECLARATION should be prepared.
- The proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT should be required.

PROJECT ANALYST: Kenneth Teasley

Attachments: Figure 1 Location Map, City of San Diego